APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/645,318	08/21/2003	James J. Fitzgibbon	79080	7612

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EXAMINER
PHU, SANH D

ART UNIT	PAPER NUMBER
2618	

DATE MAILED: 06/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
	10/645,318	FITZGIBBON ET AL.
Office Action Summary	Examiner	Art Unit	
	Sanh D. Phu	2618	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *21 August 2003*.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-37* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *17-27* is/are allowed.

6)☒ Claim(s) *1,2,6,7,11,12,28-30,36 and 37* is/are rejected.

7)☒ Claim(s) *3-5,8-10,13-16 and 31-35* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date *3/21/05*.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____ .

DETAILED ACTION

Information Disclosure Statement

1.   The IDS filed 3/21/2005 has been considered and recorded in the file.

Claim Rejections - 35 USC § 102

2.   The following is a quotation of the appropriate paragraphs of 35

U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

> A person shall be entitled to a patent unless –
>
> (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

3.   Claims 1, 2, 6, 7, 11, 12, 28-30, 36 and 37 are rejected under 35

U.S.C. 102(a) as being anticipated by Ko (WO 03/051085), provided in the IDS

filed on 3/21/05.

     -Regarding to claim 1, Ko discloses a wireless transmit-only apparatus

(see figure 4) comprising:

a controller (406) having a transmission frequency selection output

"binary data" (DATA) (see figure 4, page 16, lines 8-14, page 17, line 15 to

page 18, line 21);

a wireless transmitter (402, 401, 200) having a phase locked loop (402),

which phase locked loop is responsive to the transmission frequency selection

output; such that the wireless transmit-only apparatus can selectively transmit

at a plurality of different frequencies as selected by the controller and effected,

at least in part, by the phase locked loop (see figures 4 and 6, and page 15, line

20 to page 16, line 16, page 17, line 13 to page 19, line 17, page 27, line 20 to

page 28, line 19, and page 32, lines 2-11).

-Regarding to claim 2, Ko discloses that the phase locked loop includes a

programmable divider (see figure 11, page 19, lines 18-20) inherently having

an input for receiving a frequency (fvco) (see page 21, lines 2-21), (said input

considered here equivalent with the limitation " programmable divider input"),

wherein the input is operably couples to an oscillator, (which is inherently

included in Ko for providing a frequency (fvco) to the input) (see page 21, lines

2-21).

-Regarding to claim 6, Ko discloses a user interface (302) comprising at

least one independently assertable input (412) and wherein the controller is

operably responsive to the at least one independently assertable input (see

figure 4, page 16, line17 to page 17, line 21).

-Regarding to claim 7, Ko discloses that the user interface comprises a

plurality of independently assertable inputs (410, 412, 414, 416, 418, 420) and

wherein the controller is operably responsive to the plurality of independently

assertable inputs (see figure 4, page 16, line17 to page 17, line 21).

-Regarding to claim 11, Ko discloses that the controller comprises

control means (406) for selecting a particular output frequency, from a plurality

of available output frequencies, that the phase locked loop will provide (see

figure 6, page 15, line 20 to page 16, line 16, page 17, line 13 to page 19, line

17, page 27, line 20 to page 28, line 19, and page 32, lines 2-11).

-Regarding to claim 12, Ko discloses that the control means is further for

selecting a particular programmable divide value "division set value" (N) for the

phase locked loop (see page 19, line 20 to page 20, line 3, page 21, line 2 to

page 22, line 9).

-Regarding to claim 28, Ko discloses a method (see figure 4) of selecting

a transmission frequency for a transmit-only wireless apparatus, comprising:

procedure (402, 401, 200) of providing a transmitter having a phase

locked loop (402) that has a plurality of selectable output frequencies (see

figures 4 and 6, and page 15, line 20 to page 16, line 16, page 17, line 13 to

page 19, line 17, page 27, line 20 to page 28, line 19, and page 32, lines 2-

11);

procedure (302, 406, 402, 401) of selecting one of the plurality of

selectable output frequencies to provide a selected frequency (outputted from

(401) (see page 15, line 20 to page 18, line 12); and

procedure (401, 200) of using the selected frequency as the transmission

frequency for the transmit-only wireless apparatus (see figures 4 and 6, and

page 15, line 20 to page 16, line 16, page 17, line 13 to page 19, line 17, page

27, line 20 to page 28, line 19, and page 32, lines 2-11).

-Regarding to claim 29, Ko discloses that providing a transmitter having

a phase locked loop that has a plurality of selectable output frequencies

comprises providing a transmitter having a phase locked loop having a

programmable divider value "division set value" (N) (see page 19, line 20 to

page 20, line 3, page 21, line 2 to page 22, line 9).

-Regarding to claim 30, Ko discloses that providing a transmitter having

a phase locked loop that has a plurality of selectable output frequencies

comprises providing a transmitter having a phase locked loop (402) having a

PLL control input (Enable, Data, Clock) (see figure 4, pate 18, lines 13-15).

-Regarding to claim 36, Ko discloses procedure of providing at least one

assertable input (412); and wherein selecting one of the plurality of selectable

output frequencies to provide a selected frequency comprises procedure (302,

406) of detecting assertion of the at least one assertable input and selecting

one of the plurality of selectable output frequencies as a function, at least in

part, of detecting assertion of the at least one assertable input (see page 27,

line 15 to page 29, line 12).

-Regarding to claim 37, Ko discloses that providing at least one

assertable input comprises providing a plurality of independently assertable

user inputs (410, 412, 414, 416, 418, 420); and detecting assertion of the at

least one assertable input and selecting one of the plurality of selectable output

frequencies as a function, at least in part, of detecting assertion of the at least

one assertable user input comprises procedure (302) of detecting assertion of

one of the plurality of independently assertable input to provide a detected

asserted input (outputted from (302)) and procedure (406) of selecting one of

the plurality of selectable output frequencies as a function, at least in part, of

the detected asserted input (see page 27, line 15 to page 29, line 12).

Allowable Subject Matter

4.   Claims 3-5, 8-10, 13-16 and 31-35 are objected to as being dependent

upon a rejected base claim, but would be allowable if rewritten in independent

form including all of the limitations of the base claim and any intervening

claims.

-Regarding to claims 3-5, Ko fails to further teach that the phase locked

loop has a PLL control input that operably couples to a plurality of selectively

switchable mechanically resonant devices.

-Regarding to claim 8-10, Ko fails to further teach that the phase locked

loop has a PLL control input that operably couples to a plurality of selectively

switchable mechanically resonant devices.

-Regarding to claims 13-16, Ko fails to further teach that the control means is further for selecting a particular resonant circuit from among a plurality of candidate resonant circuits to couple to a set divide input of the phase locked loop.

-Regarding to claims 31-33, Ko fails to further teach procedure of selecting one of the plurality of selectable output frequencies to provide a selected frequency comprises selecting one of a plurality of resonant elements to operably couple to the PLL control input.

-Regarding to claims 34 and 35, Ko fails to further teach that selecting one of the plurality of selectable output frequencies to provide a selected frequency comprises selecting one of a plurality of oscillators.

5.   Claims 17-27 are allowed.

-Regarding to independent claim 17, none of prior art of record teaches or suggests a transmitter comprising a memory containing a plurality of remote control commands for a plurality of different movable barrier operators, wherein at least some of the remote control commands comprise a corresponding transmission frequency that is different from other of the

remote control commands; correlation data that correlates the at least one

assertable user input with a corresponding one of the plurality of remote

control commands and hence with a corresponding transmission frequency;

and a wireless transmitter that is responsive to the transmission frequency

selection output of a controller and having at least one selectively-variable

output frequency phase locked loop.

Conclusion

6.   The prior art made of record and not relied upon is considered pertinent

to applicant's disclosure. References (US 6,822,603), (US 6,005,508) and (US

2004/0207537) are additionally cited because they are pertinent to the claimed

method/system.

Any inquiry concerning this communication or earlier communications

from the examiner should be directed to Sanh D. Phu whose telephone number

is (571)272-7857. The examiner can normally be reached on M-Th from 7:00-

17:00.

If attempts to reach the examiner by telephone are unsuccessful, the

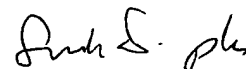examiner's supervisor, Matthew D. Anderson can be reached on (571) 272-

4177. The fax phone number for the organization where this application or

proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from

the Patent Application Information Retrieval (PAIR) system. Status information

for published applications may be obtained from either Private PAIR or Public

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Private PAIR only. For more information about the PAIR system, see

http://pair-direct.uspto.gov. Should you have questions on access to the

Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-

9197 (toll-free).

Sanh D. Phu
Examiner
Division 2618

5/16/06

SP

SANH D. PHU
PATENT EXAMINER